

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

KENNETH SMITH,)
Petitioner,)
v.) No. 1:09-CR-103-HSM-CHS-2
United States of America,) 1:16-CV-197-HSM
Respondent.)

MEMORANDUM OPINION

Federal prisoner Kenneth Smith (“Petitioner”) filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on March 18, 2013 [Docs. 159, 171; E.D. Tenn. Case No. 1:13-cv-83-HSM].¹ The Court denied relief, concluding none of the grounds asserted in Petitioner’s original petition provided a viable basis for granting the requested collateral relief [*See generally* Docs. 187, 188, 189]. Petitioner recently submitted another “memorandum” attacking the same conviction [Doc. 196]. After review, this Court finds that he intended the document as a successive 2255 petition.

Under the “Antiterrorism and Effective Death Penalty Act of 1996,” Petitioner cannot file a second or successive § 2255 petition in the District Court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the District Court to consider the motion. 28 U.S.C. § 2255(h). No such order has been received by this Court. Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** the filing [Doc. 196] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case: E.D. Tenn. Case No. 1:09-cr-103-HSM-CHS-2.

ORDER ACCORDINGLY.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE